



FOLEY
HOAG LLP
ATTORNEYS AT LAW

April 21, 2005

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Via U.S. Mail

Honorable Judge Reginald C. Lindsey
United States District Court Judge
United States District Court for the District of Massachusetts
1 Courthouse Way
Suite 2300
Boston, MA 02210

Re: Cutone, et al. v. Eli Lilly and Company, et al.
D. Mass. No. 04-CV-12725

Dear Judge Lindsey:

On April 13, 2005, an Initial Scheduling Conference was held in the above-referenced case. Due to a typographical error in our scheduling system, I believed the Conference to be set for a different date, and did not attend. I understand from Plaintiff's counsel that the Conference went ahead as scheduled, and that the Proposed Scheduling Order was approved and entered by the Court. I also understand that you have recused yourself from this case.

I write to apologize on behalf of Eli Lilly and Company and Foley Hoag LLP to the Court and Counsel of Record for any confusion or inconvenience this error may have caused. Foley Hoag considers all court appearances to be of the utmost importance, and appropriate steps have been taken to prevent such an error from occurring in the future.

Yours sincerely,


Brian L. Henninger

BH

B3024092.1

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cc: James J. Dillon
All Counsel of Record